

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RAFAEL GUTIERREZ,	:	
	:	
Plaintiff,	:	20-CV-03061 (OTW)
	:	
-against-	:	<u>ORDER</u>
	:	
KILOLO KIJAKAZI, Commissioner Of Social	:	
Security,	:	
	:	
Defendant.	:	
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ONA T. WANG, United States Magistrate Judge:

This matter is before the Court on Plaintiff’s complaint for judicial review of an unfavorable final decision by the Commissioner of Social Security (“Commissioner”) regarding Plaintiff’s application for disability insurance benefits. The parties have consented to entry of final judgment by a United States Magistrate Judge, pursuant to 28 U.S.C. § 636(c). The Court, having reviewed the record, the administrative transcript, the parties’ joint stipulation, applicable law, and having heard oral argument, finds as follows:

For the reasons announced by the Court on the record on September 30, 2021, Plaintiff’s motion for judgment on the pleadings (ECF 31) is **GRANTED** to the extent that it seeks reversal of the Commissioner’s decision, but **DENIED** to the extent it seeks remand solely for the calculation of benefits. Defendant’s cross-motion for judgment on the pleadings (ECF 29) is **GRANTED** to the extent that it seeks remand for further proceedings pursuant to 42 U.S.C. § 405(g). Upon remand, the Administrative Law Judge shall be directed to take appropriate steps to ensure that, absent a request by Plaintiff for an extension or adjournment, his revised

decision is issued within **150** days of this Order. Any administrative appeal shall be completed within **80** days of the filing of the appeal with the Appeals Council. If these deadlines are not met, then Plaintiff shall be entitled to a calculation of benefits for the period of his claimed disability. *See Butts v. Barnhart*, 388 F.3d 377, 387 (2d Cir. 2004); *Ben v. Berryhill*, No. 17-CV-08345 (DCF), 2019 WL 1447892, at *16 (S.D.N.Y. Mar. 19, 2019).

The parties are directed to order a copy of the September 30, 2021 hearing transcript and split the costs. The Clerk of the Court is respectfully directed to terminate all pending motions and close this case.

SO ORDERED.

Dated: September 30, 2021
New York, New York

s/ Ona T. Wang

Ona T. Wang
United States Magistrate Judge